

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re:

THE GREAT ATLANTIC & PACIFIC TEA COMPANY,  
INC., *et al.*,

Debtors.<sup>1</sup>

INVESTMENT RECOVERY GROUP, LLC

Plaintiffs,

v.

THE GREAT ATLANTIC & PACIFIC TEA COMPANY,  
INC., *et al.*

Defendants.

Chapter 11

Case No. 15-23007 (RDD)

(Jointly Administered)

Adv. Proc. No. 19-08715

**ORDER GRANTING DEBTORS' MOTION TO DISMISS  
INVESTMENT RECOVERY GROUP, LLC'S  
ADVERSARY COMPLAINT PURSUANT TO FED. R. BANKR. P. 7012**

Upon consideration of the *Debtors' Motion to Dismiss the Adversary Complaint and Opposition to the Emergency Motion of Investment Recovery Group, LLC for a Temporary Restraining Order and Preliminary Injunction* [Adv. Pro. ECF No. 16] (the “**Motion**”), dated

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are as follows: 2008 Broadway, Inc. (0986); The Great Atlantic & Pacific Tea Company, Inc. (0974); A&P Live Better, LLC (0799); A&P Real Property, LLC (0973); APW Supermarket Corporation (7132); APW Supermarkets, Inc. (9509); Borman's, Inc. (9761); Delaware County Dairies, Inc. (7090); Food Basics, Inc. (1210); Kwik Save Inc. (8636); McLean Avenue Plaza Corp. (5227); Montvale Holdings, Inc. (6664); Montvale-Para Holdings, Inc. (2947); Onpoint, Inc. (6589); Pathmark Stores, Inc. (9612); Plainbridge LLC (5965); Shopwell, Inc.(3304); Super Fresh Food Markets, Inc. (2491); The Old Wine Emporium of Westport, Inc. (0724); Tradewell Foods of Conn., Inc. (5748); and Waldbaum, Inc. (8599). The international subsidiaries of The Great Atlantic & Pacific Tea Company, Inc. are not debtors in these chapter 11 cases. The location of the Debtors' corporate headquarters is 19 Spear Road, Suite 310, Ramsey, New Jersey 07446.

January 31, 2020, filed by The Great Atlantic & Pacific Tea Company, Inc. and certain of their affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (the “**Debtors**”) in the above-captioned adversary proceeding (the “**Adversary Proceeding**”), in response to the adversary complaint (the “**Adversary Complaint**”) filed by plaintiff Investment Recovery Group, LLC (the “**Plaintiff**”); and the Court having jurisdiction to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b); and consideration of the Motion and the requested relief being core proceedings pursuant to 28 U.S.C. § 157(b); and it appearing that venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided, and it appearing that no other or further notice need be provided; and the Court having reviewed and considered the Motion and the supplemental submission in further support of the Motion (Adv. Pro. ECF No. 33) and the relief requested therein, and Plaintiff’s opposition to the Motion (Adv. Pro. ECF No. 21) and the supplemental submission in further opposition; and the Court having held hearings on the Motion on February 11, 2020 and May 1, 2020 (together, the “**Hearings**”); and upon the record of the Hearings, which is incorporated herein by reference; and, after due deliberation and for the reasons stated by the Court in its bench ruling on the Motion at the May 1, 2020 Hearing, the Court having determined that the Motion should be granted; now, therefore,

**IT IS HEREBY ORDERED THAT:**

1. The Motion is granted.

2. Investment Recovery Group, LLC's Adversary Complaint is dismissed.

Dated: May 13, 2020

White Plains, New York

*/s/Robert D. Drain*

THE HONORABLE ROBERT D. DRAIN  
UNITED STATES BANKRUPTCY JUDGE